



# NOAA Fisheries Service

## Frequently Asked Questions About 4(d) Rules

### What is a 4(d) rule?

A “4(d) Rule” is just one of many tools found within the Endangered Species Act (ESA) for protecting species listed as “threatened.” This rule gets its name from section 4(d) of the ESA, which directs NOAA Fisheries Service to issue regulations deemed “necessary and advisable to provide for the conservation of threatened species.” Without a 4(d) rule, threatened species do not get all of the protections that endangered species automatically get through ESA Section 9. The 4(d) rule for a threatened species may apply any or all of the ESA section 9 protections that automatically apply to species listed as endangered.

### What protections do endangered species automatically get under ESA Section 9?

Under ESA Section 9 it is illegal, with respect to any endangered species to:

- Import any such species into, or export any such species from the United States
- Take any such species within the U.S. or the territorial sea of the U.S.
- Take any such species on the high seas
- Possess, sell, deliver, carry, transport, or ship, by any means whatsoever any such species taken
- Deliver, receive, carry transport, or ship in interstate or foreign commerce and in the course of commercial activity
- Sell or offer for sale in interstate or foreign commerce any such species
- **“Take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.**

### How does NOAA Fisheries Service determine which regulations are “necessary and advisable?”

Public involvement (e.g., scoping meetings) can help us identify those activities and programs that may affect the species as well as potential exemptions to the prohibitions. NOAA Fisheries Service must determine if ESA Section 9 prohibitions are necessary to provide for the conservation of the species. The information collected during this process is used to develop a proposed 4(d) rule. Additional public comments (e.g., public hearings and formal comment periods) may be solicited.

### What does a 4(d) rule do?

The intent of any 4(d) rule is to provide for the conservation of the species. A 4(d) rule allows NOAA Fisheries Service the flexibility to customize prohibitions and regulate activities to provide for the conservation of threatened species, potentially without involving all of the restrictions that apply to endangered species. The exact requirements depend on the species’ biology, conservation needs, and threats being managed.

